

CTT
ORIGINAL

FW025526

James A. Foley
4116 W. Vickery Blvd. #103
Fort Worth, TX 76107
817-738-1633
817-348-8328

2015 DEC 14 PM 4:15
TS
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

Samantha A. Stroud
Plaintiff

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Civil Action No.

4-15CV-050-Y

v.

Portfolio Recovbery Associates, LLC

Defendants

Complaint

And

Demand For Jury Trial

(Unlawful Debt Collection Practices)

PRELIMINARY STATEMENT

1. Plaintiff, Samantha Stroud ("Owens") brings this action under the FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C. § 1692, *et seq.* ("FDCPA"), to obtain statutory damages, actual damages, relief, and other relief for the Defendants' violations of the FDCPA.

2. Defendant, Portfolio Recovery Associates LLC ("Portfolio") attempted to collect a consumer debt allegedly owed by Plaintiff, arising from a purported credit card obligation to HSBC Bank, Nevada N.A, allegedly assigned to Portfolio. The obligation ("Debt") required Plaintiff to pay money arising out of transactions in which money, property, insurance, or services were the subject thereof and the same were primarily for personal, family, or household purposes. Specifically, the alleged debt arose from an credit card account.

JURISDICTION AND VENUE

3. Jurisdiction of this Court attains pursuant to 15 U.S.C. § 1692k(d), 28 U.S.C. §§ 1331 and 1337(a).

4. Venue in the Northern District of Texas is proper under 28 U.S.C. § 1391(b)-(c) and because the acts and transactions occurred here and the Defendants transact business here.

5. Plaintiff is a citizen of the State of Texas. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3).

6. Portfolio, is a business engaged in the business of collecting consumer debts in the Northern district of Texas. The principal purpose of Portfolio’s business is the collection of consumer debts using the mails and telephone, and they regularly attempts to collect consumer debts for others. Portfolio is a “debt collector” as defined by 15 U.S.C. § 1692a(6). .

FACTUAL ALLEGATIONS

7. Prior to February 4, 2015 Samantha Stroud had been receiving letters from Portfolio. On or about February 4, 2015, Stroud retained the services of James Foley PLLC, and attorney sent a letter of representation to Portfolio. The letter claimed representation on the HSBC debt and all matters relating to collections or debt. The letter and fax confirmation are attached as exhibits A and B, respectively. Portfolio has never contacted the attorney, but despite knowing that she was represented by counsel, has twice sent letters directly to Stroud. One was dated July 28, 2015 and the other November 12, 2015. See attached Exhibits C and D..

8. The foregoing acts and omissions were undertaken on behalf of the Defendants by their respective officers, agents, or employees acting at all times relevant hereto within the scope of that relationship.

9. The foregoing acts and omissions of the Defendants were undertaken by them willfully, intentionally, knowingly, and/or in gross disregard of the rights of the Plaintiff. Defendants knew or should have known that the Defendant was represented.

10. The foregoing acts and omissions of the Defendant were undertaken indiscriminately and persistently, as part of Defendants’ regular and routine collection efforts, and without regard to or consideration of the rights of the Plaintiff.

CLAIM FOR RELIEF

11. The Plaintiff repeats, re-alleges, and incorporates by reference the foregoing paragraphs. The Defendants’ violations of the FDCPA include, but are not limited to the following:

A

In sending this communication directly to Defendant, Plaintiff is in violation of 15 U.S.C. § 1692c (a)(2) which prohibits debt collectors from communicating with a consumer when the debt collector knows the consumer is represented by as attorney with respect to such debt.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that this Court:

1. Declare that Defendants' actions violate the FDCPA.
2. Enter judgment in favor of Plaintiff and against Defendants for statutory damages, actual damages, costs, and reasonable attorney's fees as provided by 15 U.S.C. § 1692c(a)(2)
3. Grant such further relief as deemed just.

Respectfully submitted,

s/ James A. Foley

By: _____

James A. Foley SBN 24055491
4116 West Vickery Blvd., #103
Fort Worth, Texas 76107
(817) 738-1633
Fax (866) 512-5807
ATTORNEY FOR PLAINTIFF
Samantha Stroud

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury in this action.

Respectfully submitted,

s/ James A. Foley

By: _____

James A. Foley SBN 24055491
4116 West Vickery Blvd., #103
Fort Worth, Texas 76107
(817) 738-1633
Fax (866) 512-5807
ATTORNEY FOR PLAINTIFF
Samantha Stroud

EXHIBIT A

JAMES FOLEY, PLLC
Attorney at Law
4116 W. Vickery Blvd #103
Fort Worth, TX 76107

Phone (817) 738-1633
Fax (866) 512-5807
james@jamesfoleypllc.com

February 4, 2015

Portfolio Recovery Associates
c/o Jennifer Sanders & Jamilla Loyd
Via Facsimile: (757) 518-0860

Re: Portfolio Recovery Associates LLC Samantha Stroud Original Creditor: HSBC Bank Nevada N.A.

Current Owner: Portfolio Recovery Associates LLC

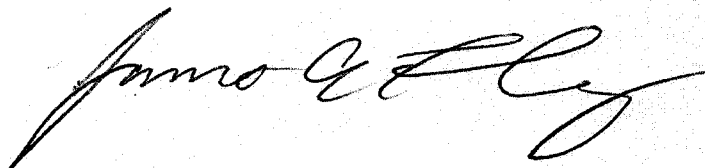
To whom it may concern,

Please be advised that I represent Samantha Stroud on this and all matters related to collection or alleged debt issues. Be advised that under 15 U.S.C. § 1692(c)(2) all further communications regarding this, or any other debt or collection matter shall come to my office.

This will also serve as your notice to verify the debt as required by FDCPA pursuant to 15 USC 1692g. Please provide the information provided by that law.

The debt is also disputed. You should cease collection of the debt until you verify the debt by obtaining a copy of the debt and/or judgment. Sufficient verification of the debt should include a copy of any agreement which bears my client's signature and the most recent statement before you claim that the account became delinquent. Please forward all documentation you have regarding this account.

Sincerely,

A handwritten signature in black ink, appearing to read "James A. Foley", written in a cursive style.

James A. Foley
Texas Bar Number 24055491

EXHIBIT B

FAX Transmission Status

Transmission complete: 2015-2-3 19:55:49 MST7MDT

Job ID 174823470 Destination (757)518-0860

Status Success Detail Success

Pages 1 Xmit Time 00:01:27

JAMES FOLEY, PLLC
Attorney at Law
4116 W. Vickery Blvd #103
Fort Worth, TX 76107

Phone (817) 738-1633
Fax (866) 512-5807
james@jamesfoleyllc.com

February 4, 2015

Portfolio Recovery Associates
Via Facsimile: (757) 518-0860

Re: Samantha Stroud Original Creditor: HSBC Bank Nevada N.A.
Current Owner: Portfolio Recovery Associates LLC

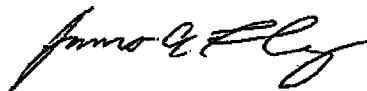
To whom it may concern,

Please be advised that I represent Samantha Stroud on this and all matters related to collection or alleged debt issues. Be advised that under 15 U.S.C. § 1692(c)(2) all further communications regarding this, or any other debt or collection matter shall come to my office.

This will also serve as your notice to verify the debt as required by FDCPA pursuant to 15 USC 1692g. Please provide the information provided by that law.

The debt is also disputed. You should cease collection of the debt until you verify the debt by obtaining a copy of the debt and/or judgment. Sufficient verification of the debt should include a copy of any agreement which bears my client's signature and the most recent statement before you claim that the account became delinquent. Please forward all documentation you have regarding this account.

Sincerely,



James A. Foley
Texas Bar Number 24055491

EXHIBIT C

Seller: HSBC BANK NEVADA N.A.
Merchant: ARBOR - ORCHARD AND HB
Original Creditor: HSBC BANK NEVADA N.A.

Account/Reference No.:	5488975068477291
Creditor to Whom Debt is Owed:	Portfolio Recovery Associates, LLC
CURRENT BALANCE DUE:	\$2,268.34

Portfolio Recovery Associates, LLC

July 29, 2015


Dear SAMANTHA A STROUD,

For nearly 20 years, Portfolio Recovery Associates, LLC ("PRA, LLC") has helped customers across the country resolve their debt. Please contact us directly to find out how we can help you. We are committed to working with you to design a plan that fits your budget. Call us today!

<p><u>Single Payment</u> Savings Plan</p> <ul style="list-style-type: none"> ● Pay \$1,590.00 ● Save \$678.34 <p>Your account will be considered "Settled in Full" after your final payment is posted.</p>	<p><u>12 Month</u> Installment Option</p> <ul style="list-style-type: none"> ● Pay \$145.00 for 12 consecutive months ● Save \$528.34 <p>Your account will be considered "Settled in Full" after your final payment is posted.</p>	<p><u>32 Month</u> Installment Option</p> <ul style="list-style-type: none"> ● Pay \$70.00 for 32 consecutive months <p>Your account will be considered "Paid in Full" after your final payment is posted.</p>
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*****Your first or full payment must be received no later than 08/28/2015*****
Call now to get started or to learn about other payment options!

We are ready to help you resolve this debt!
Just call:
1-800-772-1413
before 08/28/2015
to discuss the
AFFORDABLE PAYMENT OPTIONS
that are available to you.
(EST) 8 AM to 11 PM Mon.-Fri.
8 AM to 5 PM Sat. = 2 PM to 9 PM Sun.

 **Mail all checks and payments to:**
PORTFOLIO RECOVERY ASSOCIATES, LLC
P.O. Box 12914
Norfolk VA 23541



**Pay Online Using
Your Checking Account!**
www.portfoliorecovery.com

Because of the age of your debt we will not sue you for it. If you do not pay the debt, we may report it to the credit reporting agencies as unpaid.

**This communication is from a debt collector and is an attempt to collect a debt.
Any information obtained will be used for that purpose.**

NOTICE: See Reverse Side for Important Information

16CDPRA\$0147M2

PLEASE DETACH AND RETURN WITH YOUR PAYMENT

Account/Reference No.: 6488975068477291

Payment Amount \$_____

CDPRAS01
PO Box 1022
Wixom MI 48393-1022

ADDRESS SERVICE REQUESTED

Mail all checks and payments to:

July 29, 2015

PORTFOLIO RECOVERY ASSOCIATES, LLC
P.O. Box 12914
Norfolk VA 23541

47M2 646721851

SAMANTHA A STROUD
416 W Bedford Eufless Rd
Hurst TX 76053-3958

EXHIBIT D

Seller: HSBC BANK NEVADA N.A.
 Merchant: ARBOR - ORCHARD AND HB
 Original Creditor: HSBC BANK NEVADA N.A.

Account Number: 5488975068477291
 Creditor to Whom Debt is Owed: Portfolio Recovery Associates, LLC
 Current Balance Due: \$2,268.34

Portfolio Recovery Associates, LLC


November 12, 2015

Dear SAMANTHA A STROUD,
 For nearly 20 years, Portfolio Recovery Associates, LLC ("PRA, LLC") has helped customers across the country resolve their debt. Please contact us directly to find out how we can help you. We are committed to working with you to design a plan that fits your budget. Call us today!

<u>Single Payment</u> Savings Plan	<u>12 Month</u> Installment Option	<u>32 Month</u> Installment Option
<ul style="list-style-type: none"> • Pay \$1,590.00 • Save \$678.34 	<ul style="list-style-type: none"> • Pay \$145.00 for 12 consecutive months • Save \$528.34 	<ul style="list-style-type: none"> • Pay \$70.00 for 32 consecutive months
Your account will be considered "Settled in Full" after your final payment is posted.	Your account will be considered "Settled in Full" after your final payment is posted.	Your account will be considered "Paid in Full" after your final payment is posted.

*****Your first or full payment must be received no later than 12/11/2015*****
 Call now to get started or to learn about other payment options!

We are ready to help you resolve this debt!
 Just call:
1-800-772-1413
 before 12/11/2015
 to discuss the
AFFORDABLE PAYMENT OPTIONS
 that are available to you.
 (EST) 8 AM to 11 PM Mon.-Fri.
 8 AM to 8 PM Sat. • 11 AM to 11 PM Sun.

 **Mail all checks and payments to:**
PORTFOLIO RECOVERY ASSOCIATES, LLC
 P.O. Box 12914
 Norfolk VA 23541

 **Pay Online Using**
Your Checking Account!
www.portfoliorecovery.com

Because of the age of your debt we will not sue you for it. If you do not pay the debt, we may report it to the credit reporting agencies as unpaid.

This communication is from a debt collector and is an attempt to collect a debt.
Any information obtained will be used for that purpose.

NOTICE: See Reverse Side for Important Information

16CDPRAS0147M2

PLEASE DETACH AND RETURN WITH YOUR PAYMENT

Account Number: 5488975068477291

Payment Amount: \$ _____

CDPRAS01
 PO Box 1022
 Wixom MI 48393-1022

ADDRESS SERVICE REQUESTED

November 12, 2015

Mail all checks and payments to:

PORTFOLIO RECOVERY ASSOCIATES, LLC
 P.O. Box 12914
 Norfolk VA 23541

47M2 731684552



SAMANTHA A STROUD
 416 W Bedford Eules Rd
 Hurst TX 76053-3858



The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Samantha A. Stroud
 416 Bedford Euless Road
 Hurst, TX 76053

(b) County of Residence of First Listed Plaintiff **Tarrant**
 (EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

Portfolio Recovery Associates, LLC
 120 Corporate Blvd., Suite 100
 Norfolk, VA 23502

County of Residence of First Listed Defendant **Independent**
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

(c) Attorneys (Firm Name, Address, and Telephone Number)

James Foley PLLC
 4116 W. Vickery Blvd #103
 Ft. Worth, TX 76107

4-15CV-950-Y

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation

CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF TEXAS

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 15 USC 1692

Brief description of cause:
 Fair Debt Collection, contacting represented party

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
 DEMAND \$ 1,000.00

CHECK YES only if demanded in complaint:
 JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED PENDING OR CLOSED CASE(S) IF ANY
 (See instructions):

JUDGE

DOCKET NUMBER

DATE

12/11/2015

SIGNATURE OF ATTORNEY OF RECORD

s/ James A. Foley

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____